

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ERNANI G. BORJA, MARIE J. V. BORJA, SP 2015-LE-133 Appl. under Sect. 8-914 of the Zoning Ordinance to permit a reduction in minimum yard requirements based on error in building location to permit a deck (patio) to remain 2.1 ft. from a side lot line and 1.5 ft. from a rear lot line. Located at 6000 Brandon Ave., Springfield, 22150, on approx. 12,560 sq. ft. of land zoned R-4. Lee District. Tax Map 80-4 ((3)) (3) 30. (Concurrent with VC 2015-LE-010). Ms. Theodore moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 24, 2016; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The applicants have met the provisions of Sect. 8-914, A through H, and in particular that the noncompliance was done in good faith.
3. The applicants' justification indicated that they relied on a contractor for the work that was performed.
4. The applicants have reviewed, understand, and agree with the proposed development conditions, including the addition made at this hearing.

THAT the applicants have presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:


- 1. This special permit is granted only for the location of the accessory structure (stone patio) as indicated on the plat titled, "Plat showing the House Location on Lot 30, Block 3, Section two, Yates Village," prepared by George M. O'Quinn on July 16, 2015, as revised on August 24, 2015, and approved with this application, as qualified by these development conditions.
- 2. All applicable building permits shall be obtained within ninety (90) days, and all required inspections passed within six (6) months from the date of this approval.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

Mr. Beard seconded the motion, which carried by a vote of 5-0. Mr. Byers and Mr. Smith were absent from the meeting.

A Copy Teste:



Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals